



Agenda Date: 12/14/11  
Agenda Item: IIC

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 So. Clinton Ave, P.O. Box 350  
Trenton, NJ 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

ORDER

IN THE MATTER OF THE PETITION OF PIVOTAL  
UTILITY HOLDINGS INC., D/B/A ELIZABETHTOWN  
GAS, FOR APPROVAL OF A MUNICIPAL CONSENT  
OF THE TOWNSHIP OF KINGWOOD, HUNTERDON  
COUNTY, NEW JERSEY

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DOCKET NO. GE11100636

Parties of Record:

**Mary Patricia Keefe, Esq.**, on behalf of Pivotal Utility Holdings Inc., d/b/a Elizabethtown Gas

**James W. Glassen, Esq.**, Assistant Deputy Rate Counsel, New Jersey Division of Rate Counsel

BY THE BOARD:

Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas (ETG or Company), a regulated utility subject to the jurisdiction of the Board of Public Utilities (Board), is a corporation duly organized under the laws of the State of New Jersey engaged in the business of transmission and distribution of natural and mixed gas to approximately 275,000 customers within its service territory located principally in Hunterdon, Mercer, Middlesex, Morris, Sussex, Union and Warren Counties.

ETG currently serves portions of Kingwood Township in Hunterdon County, pursuant to a franchise limited to certain geographical portions of the Township. In 1996, the Board approved the original consent (Dkt. No. GE97020081), by which the Company served Magnesium Electronic Industries, a local manufacturing facility, as well as certain other residential and

commercial customers located in the vicinity of this main gas pipeline extension. Subsequently, in October 2008, the Company extended an 8-inch main gas pipeline through the Township along State Route 12 as part of an infrastructure improvement project. Approximately one year later, the Company was contacted by the Kingwood Board of Education (BOE) to explore the conversion of its school's existing oil heating and hot water system to natural gas as the system was in need of replacement. The BOE and the Company obtained all necessary municipal permits and street opening permits. After the main pipeline extension had been completed, but before the service line to the school was connected, ETG and the BOE discovered that the school was, in fact, beyond the original consent area. Subsequently, the Company applied to the Township for an extended franchise.

On September 1, 2011, the Mayor and Council of the Township adopted Ordinance No. 16-23-2011 which granted to ETG a municipal consent to utilize the Township's public rights-of-way to construct, maintain and operate those facilities necessary for the provision of natural and mixed gas service within the Township for a term of fifteen (15) years in those portions of the Township in which it has previously provided gas service and, in addition, all properties along County Route 12 and the Kingwood School. A copy of the Ordinance is attached hereto and designated as Schedule "A." By letter dated September 12, 2011, the Company accepted and agreed to the terms and conditions of the franchise subject to the approval of this Board. A copy of the Company's acceptance letter is attached hereto and designated as Schedule "B".

On October 11, 2011, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, ETG filed a petition requesting that this Board approve the consent adopted by the Township. As required by law, and after submission of responses to Staff discovery requests and after notice, a hearing in this matter was held on November 2, 2011, before Michael Borgatti, the Board's duly designated hearing officer. Appearances were made on behalf of the Company, the Division of Rate Counsel (Rate Counsel) and Board Staff. No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

At the hearing, the Company relied on its petition and exhibits filed with the Board, and presented the testimony of Gary J. Marmo, its manager of Marketing Development. Mr. Marmo testified that in accordance with the extended franchise granted by the Township, the Company will provide training to the Township's first responders as to emergency procedures in relation to the operation of the gas line prior to the provision of service to the school and to any one located in the additional franchise area. He also stated that while there are approximately 1,400 homes within the Township, based on the restricted area of the franchise granted by the Township, the Company anticipates being able to serve approximately fifty (50) customers.

After a full review of the entire record, the Board HEREBY FINDS that the municipal consent, which is the subject of this matter, is necessary and proper for the public convenience and properly conserves the public interest, and that the Company has the necessary experience, financial capability, capacity and facilities as well as the ability to install the appropriate infrastructure to allow it to provide safe, adequate and proper service in the Township, as well as to continue to provide adequate and appropriate service to its existing customers.

Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, HEREBY APPROVES the consent granted to ETG by Kingwood Township for the provision of natural gas service in the Township as sought in the Company's petition.

The approvals granted hereinabove shall be subject to the following provisions:

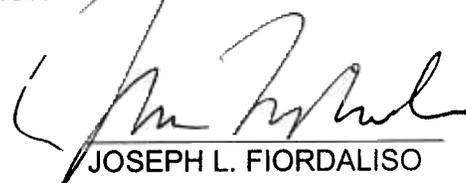
1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by ETG.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board of the State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting ETG.
3. The rates for service to ETG's customers in the Township shall continue to be those set in the Company's current tariff approved by and on file with the Board. These rates shall remain in effect until otherwise approved by the Board.
4. In an appropriate subsequent proceeding, ETG shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers.
5. Approval of this municipal consent does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

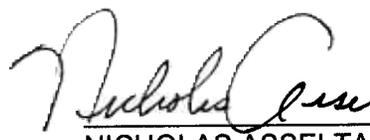
DATED: 12/15/11

BOARD OF PUBLIC UTILITIES  
BY:

  
LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELTA  
COMMISSIONER

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities

ATTEST:   
KRISTI IZZO  
SECRETARY



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ELIZABETHTOWN GAS, FOR APPROVAL OF A MUNICIPAL CONSENT OF THE  
TOWNSHIP OF KINGWOOD, HUNTERDON COUNTY, NEW JERSEY**

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